

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
The Development of Operational, Technical	)	WT Docket No. 96-86
and Spectrum Requirements for Meeting Federal,	)	
State and Local Public Safety Communications	)	
Requirements Through the Year 2010	)	

**REPLY COMMENTS OF ACCESS SPECTRUM, L.L.C.,  
COLUMBIA CAPITAL III, LLC,  
INTEL CORPORATION, AND  
PEGASUS COMMUNICATIONS CORPORATION**

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July 6, 2006

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Access Spectrum, L.L.C., Columbia Capital III, LLC, Intel Corporation, and Pegasus Communications Corporation submit these reply comments in the above-referenced proceeding.

In our comments, we proposed that the Commission adopt the Upper 700 MHz Broadband Optimization Plan ("Broadband Optimization Plan") to accommodate broadband operations in the Upper 700 MHz band public safety allocation.<sup>1</sup> The Broadband Optimization Plan has attracted substantial positive attention from both public safety agencies and technology companies that have either specifically endorsed the Broadband Optimization Plan or have expressed a desire to consider a plan that accomplishes the goals of increased public safety flexibility and greater spectral efficiency.<sup>2</sup>

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<sup>1</sup> Comments of Access Spectrum, L.L.C., Columbia Capital III, LLC, Intel Corporation, and Pegasus Communications Corporation, at 13-14. (Unless otherwise indicated, all comments cited herein were filed in WT Docket No. 96-86 on June 6, 2006.)

<sup>2</sup> Comments of Region 24 (Missouri) 700 MHz Regional Planning Committee at 18; Comments of Region 26 (Nebraska) 700 MHz Regional Planning Committee at 1-2; Comments of Region 39 (Tennessee) 700 MHz Regional Planning Committee at 1-2; Comments of State of Hawaii at 1-3; Comments of Northrop Grumman Information Technology, Inc. at 8-10.

Further, a meaningful segment of the public safety community, including public safety associations and agencies, have expressed potential interest in the Broadband Optimization Plan pending the resolution of certain issues, specifically the re-programming of already deployed dual-band 700 MHz/800 MHz radios to ensure interoperability as well as timely coordination with Canadian licensees in the upper 700 MHz band along the US/Canada border. We understand that it is essential that these issues be resolved in a manner consistent with the needs of the public safety community. We believe these issues can be satisfactorily resolved in an expeditious manner, and we are committed to pursuing comprehensive collaborative efforts with the relevant public safety, governmental and commercial entities to identify and implement solutions. We are confident that by working together and with the public safety community's support and guidance, we can achieve all the benefits of the Broadband Optimization Plan and avoid placing any additional undue burdens, including those that are financial in nature, on the public safety community.

As explained in our comments, the Broadband Optimization Plan achieves its greater contiguous bandwidth in part from reallocation and reconfiguration of current A and B Block commercial guard band spectrum. Despite the plan's substantial benefits and public support, however, the *Public Safety Broadband NPRM* explicitly states that the A and B Block issues "are beyond the scope of this proceeding; and we will address them in a separate rulemaking."<sup>3</sup>

Given the broad interest expressed via filed comments and reply comments in the Broadband Optimization Plan, the Commission should immediately expand the scope of this proceeding to enable it to consider the Broadband Optimization Plan. The Commission has

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<sup>3</sup> *The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, Eighth Notice of Proposed Rulemaking, 21 FCC Rcd 3668, ¶ 34 (2006) (FCC 06-34) ("*Public Safety Broadband NPRM*").

acknowledged and exercised its ability to expand the scope of pending rulemakings in order to include other issues where appropriate.<sup>4</sup> In this case, where a proposal to address issues that are within the scope of the proceeding inextricably involves issues that have been excluded from the proceeding, it is appropriate to issue a notice focused on the limited set of issues necessary to properly consider the proposal. Alternatively, the Commission could initiate a separate proceeding, as promised in the *Public Safety Broadband NPRM*, so that the proposal as a whole may receive proper consideration.<sup>5</sup>

Whatever mechanism the Commission chooses to enable consideration of the Broadband Optimization Plan, it should adopt its approach expeditiously so that the significant benefits and flexibility of the Broadband Optimization Plan may be realized.

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<sup>4</sup> See, e.g., 2002 Biennial Regulatory Review, Report, 18 FCC Rcd 4726, ¶ 10 n.13 (2002); *Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*, Notice of Proposed Rulemaking, 87 F.C.C.2d 716, ¶ 17 (1981).

<sup>5</sup> The Commission has committed to addressing such issues in prior statements. See *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, ¶¶ 208-209 (2004); *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Supplemental Order and Order on Reconsideration, 19 FCC Rcd 25120, ¶ 8 n.19 (2004).

For the foregoing reasons, we urge the Commission to initiate procedural measures to enable full consideration of the Broadband Optimization Plan described in our initial comments.

Respectfully submitted,

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